

REMARKS

The Office Action electronically mailed October 13, 2009 has been received and reviewed. By the present Response and Amendment, Claims 1 and 78 are amended. No new matter is introduced.

Interview Substance

Applicant's undersigned counsel thanks Examiner Stout and SPE Hindenburg for their participation in a telephonic interview conducted November 17, 2009. It was clarified that the October 13 office action is a non-final action. It was also discussed that Applicant could amend Claim 1 to clarify the provision of a "guide member" associated with each lancet to distinguish over the Schraga '100 reference, and amend Claim 78 to clarify that the retainer springs were separate components from the protective caps to distinguish over the Boecker et al publication. Agreement was not reached as to the allowability of any particular claim language.

35 U.S.C. §103

Claims 1, 2, 5-12, 17-20, 69 and 70 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,228,100 to Schraga in view of U.S. Patent No. 6,706,159 to Moerman et al. Applicant requests reconsideration in view of the present amendments to Claim 1. As amended, Claim 1 includes: "at least one guide member associated with each lancet," and "a retainer position within the cassette adjacent each said at least one guide member...." The art of record does not disclose or suggest the provision of a guide member associated with each lancet, nor a retainer position for separated protective caps adjacent each such guide member as presently claimed. Quite to the contrary, the Schraga reference discloses a single "tip guard removal assembly 90," which sequentially operates to remove the tip guards 72 of each lancet.

Furthermore, it is clear that the Schraga device does not retain the tip guards of used lancets, and only the tip guards of new lancets are positioned in the gap between

the shield assembly and the lancet carrier in the manner asserted by the office action. See Figure 4 and column 4, lines 54-59 of Schraga '100. Thus, there is no disclosure or suggestion of "a retainer position within the cassette ... to retain the separated protective cap," as presently claimed. The Moerman et al '159 reference also fails to disclose or suggest these features of the invention as presently claimed.

Claim 16 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,228,100 to Schraga in view of U.S. Patent No. 6,706,159 to Moerman et al., and further in view of U.S. Patent No. 6,197,041 to Shichman et al. Claim 16 stands rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,228,100 to Schraga in view of U.S. Patent No. 6,706,159 to Moerman et al., and further in view of U.S. Patent No. 5,554,166 to Lange et al. Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,228,100 to Schraga in view of U.S. Patent No. 6,706,159 to Moerman et al., and further in view of U.S. Patent No. 5,385,571 to Morita et al. Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,228,100 to Schraga in view of U.S. Patent No. 6,706,159 to Moerman et al. and further in view of U.S. Patent No. 5,152,775 to Ruppert et al. These claims depend from Claim 1, and the additional (tertiary) references cited fail to disclose or suggest at least the above-discussed features of Claim 1 that are lacking in the Schraga and Moerman et al references. Accordingly, for at least the reasons set forth above with regard to amended Claim 1, these claims are likewise believed to be allowable.

Claims 78 – 80 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Published Patent Application No. 2004/0102803 to Boecker et al. Applicant requests reconsideration in view of the present amendments to Claim 78. As amended, Claim 78 recites that "the retainer and the protective caps compris[e] separate components...." As discussed in the interview, the Boecker et al reference does not


disclose or suggest the provision of retainer springs separate from the protective caps as presently claimed.

Pages 11-13 of the office action appear to apply the Boecker et al publication to Claims 1, 13, 14 and 15, but only Claims 78-80 are identified as being rejected over the reference in the first paragraph of page 11. With regard to Claim 1 (and its dependent claims), the Boecker et al reference does not disclose or suggest any guide member aligned transversely to the path of travel of a lancet, as presently claimed. Nor does the Boecker et al reference disclose or suggest any retainer position for retention of separated caps as presently claimed. Rather, the flexing shield portions of the Boecker et al device appear to remain attached and to return to their original position after a lancet is used.

CONCLUSION

In view of the amendments submitted herein and the above comments, it is believed that all grounds of rejection are overcome and that the application has now been placed in full condition for allowance. Accordingly, Applicant earnestly solicits early and favorable action. Should there be any further questions or reservations, the Examiner is urged to telephone Applicant's undersigned attorney at (770) 984-2300.

Respectfully submitted,



Bradley K. Groff
Reg. No. 39,695

Customer No. 23506
GARDNER GROFF GREENWALD & VILLANUEVA, PC
Tel: (770) 984-2300
Fax: (770) 984-0098